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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,314	06/12/2001	Mark A. Dovi	10005097-1	5150

7590 09/08/2004

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

WANG, WAYLON

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/879,314

Applicant(s)

DOVI, MARK A.

Examiner

Waylon Wang

Art Unit

2127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Claims 1-16 are presented for examination.

Specification

2. The sentence/paragraph of 'Engine 216' is missing from the specification of line 26, page 8. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-11 recite the limitation "second data transfer pathways" in lines 26-27 and 29-30. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 14 recites the limitation "wherein the predetermined data transfer manager" in lines 16-17, and "the preselected transfer attributes" in lines 17-18. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Maki-Kullas (U.S. Patent 6,650,621).

6. As per claim 1, Maki-Kullas teaches the invention as claimed including a method for transferring data between processing applications:

measuring a first data transfer metric for a first data transfer pathway between said first process and said second process; (col. 8, lines 34-42)

measuring said first data transfer metric for a second data transfer pathway between said first process and said second process; (col. 8, lines 34-42)

comparing the first data transfer metric for the first pathway to the first data transfer metric for the second pathway; (col. 8, lines 34-42)

selecting one of said first and second data transfer pathways for subsequent data transfers based upon the result of said step of comparing, and upon at least one user-specified data transfer rule. (col. 8, lines 37-38, col. 9, lines 5-6, 26-28)

7. As per claim 2, Maki-Kullas teaches at least one of first and second data transfer pathways are comprised of at least one computer program (communication program).

8. As per claim 3, Maki-Kullas teaches at least one of first and second data transfer pathways is a physical transmission media (network connecting between two nodes).

9. As per claim 4, Maki-Kullas teaches a data transmission pathway data transfer rate (col. 8, lines 37-38), a data transmission pathway cost (col. 10, line 31), a data transmission pathway processing overhead (col. 10, lines 22-23, and 27-29) and, at least, the data transfer rate is included (col. 5, lines 4-6).

10. As per claims 5-8, they are method for transferring data between processors claims of claims 1-4. Therefore, they are rejected for the same reason as claims 1-4 above.

11. As per claims 9-12, they are method for transferring data between first and second data processing applications claims of claims 1-4. Therefore, they are rejected for the same reason as claims 1-4 above.

12. As per claims 13-16, they are computer system claims of claims 1-4. Therefore, they are rejected for the same reason as claims 1-4 above.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Waylon Wang whose telephone number is (703)605-430 or (571) 272-3775 effective 10/15/2004. The examiner can normally be reached on Monday-Thursday from 8:30AM-18:00PM.

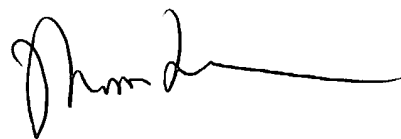
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C Lee can be reached on (703)305-9717, or (571)272-3667 effective 10/15/2004. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306, or Tech Center Main Number (571) 272-2100 effective 10/15/2004.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Thomas Lee', with a long horizontal flourish extending to the right.

THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100